

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

RICHARDSON WATER COMPANY,
LLC,

Petitioner,

Seeking Exemption from the Provisions
of WAC 480-110-255 Relating to
Jurisdiction of Water Companies

DOCKET UW-171068

ORDER 01

GRANTING COMMISSION STAFF'S
PETITION TO REMOVE THE
COMPANY FROM REGULATION

BACKGROUND

- 1 On October 17, 2017, Richardson Water Company, LLC (Richardson Water) filed with the Washington Utilities and Transportation Commission (Commission) an initial tariff for the provision of water service in Yakima, Washington. Richardson Water serves two customers on a water system located in Yakima County.
- 2 In 1978, the Richardson family built Sun Country Estates, a planned manufactured home development. At that time, the Washington State Department of Ecology (Ecology) issued a ground water permit to provide water for the Sun Country Estates development, which included a truck line business (owned by the Richardson family) and two single-family houses. Since then, the two single-family houses have connected to an independent water system and are no longer served by Richardson Water.
- 3 Sun Country Estates is now fully developed and serves water to 174 residential lots as part of Sun Country Estates Maintenance Association (HOA). Richardson Water serves only the truck line business and the HOA. The Company has recently completed significant repairs to its water system totaling more than \$169,000.

4 Richardson Water charges the HOA \$5,848 monthly, or approximately \$34 per month, per lot. The Company bills the truck line business \$200 monthly.¹ Both customers are charged flat rates and may have meters installed.

5 On December 7, 2017, Richardson Water filed a petition requesting an exemption from Commission jurisdiction under WAC 480-110-255 because it serves only two customers. On December 8, 2017, Richardson Water filed a letter withdrawing its initial tariff.

6 On July 26, 2018, the Commission heard Richardson Water's petition for exemption from Commission regulation at its regularly scheduled open meeting. Commission staff (Staff) recommended the Commission deny the Company's Petition and order the Company to file an initial tariff. Following presentations by both Staff and the Company, the parties agreed to continue their discussions and attempt to reach a mutually agreeable resolution. At the conclusion of the parties' presentations, we concluded that we did not have sufficient information to determine whether an exemption was in the public interest. Rather, we decided to revisit the issue once the Company and the HOA finalized their water agreement.

7 On August 29, 2018, Richardson Water filed with the Commission its water agreement with the HOA. The agreement sets a fixed monthly fee for water paid by the HOA through December 31, 2028, based on a monthly charge per lot. The monthly charge per lot begins at \$45 and gradually increases to \$55 by July 1, 2019. Commencing on January 1, 2021, and every January 1 thereafter, the monthly charge will increase by one and a half percent. By 2028, the charge per lot will increase to nearly \$62. A letter from the HOA Board of Directors' President, Charles Pierson, dated August 23, 2018, and addressed to the Commission, accompanied the water agreement filing. The letter stated that, among other things, "Richardson Water Company has supplied water to Sun Country Estates Maintenance Association for approximately forty years without problems and would like to continue."

8 On September 21, 2018, Staff filed a motion requesting an order from the Commission removing Richardson Water from regulation (Petition).² The Commission construed

¹ These figures were provided by the Company in response to Commission staff's July 12, 2017, Water System Questionnaire.

² Although Staff requested to remove Richardson Water from regulation, the issue of whether the Commission has jurisdiction over Richardson Water remains unresolved. To date, the

Staff's motion as a petition because it sought specific relief from the Commission outside the context of an adjudicative proceeding.³ In its Petition, Staff argues that while Richardson Water is subject to Commission jurisdiction as a public service company and water company under RCW 80.04.010(30)(a) and WAC 480-110-255,⁴ the Commission should remove Richardson Water from regulation based on the public interest considerations explained in its Petition.

9 On September 26, 2018, the Commission issued a Notice of Opportunity to Respond to Staff's Petition by October 17, 2018. The Commission received no response.

DISCUSSION AND DECISION

10 We agree with Staff that Richardson Water is a water company and a public service company subject to the Commission's jurisdiction.

11 A public service company "includes every gas company, electrical company, telecommunications company, wastewater company, and water company."⁵ A water company subject to the Commission's regulation is defined as "every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state."⁶ Statute excludes from Commission regulation, however, "any water system serving less than one hundred customers" if the average annual gross revenue per customer is less than the threshold amount set by the Commission.⁷

Commission has neither acted upon the Company's petition for exemption nor otherwise decided this matter.

³ Pursuant to WAC 480-07-375, motions may only be filed in the context of an adjudicative proceeding. This matter has not been set for adjudication.

⁴ Docket UW-171068, *In re the Petition of Richardson Water Company, LLC*, Staff's Motion for Order Removing the Company from Regulation, 7-8, ¶¶ 12-14 (Sept. 21, 2018) [hereinafter Staff's Petition].

⁵ RCW 80.04.010(23).

⁶ RCW 80.04.010(30)(a).

⁷ RCW 80.04.010(30)(b). WAC 480-110-255(1)(b) currently sets the threshold average annual gross revenue per customer at \$557.

12 Although Richardson Water has only two customers, as it argued in its filing on December 7, 2017, its annual gross revenue per customer is approximately \$36,288, which significantly exceeds the current threshold amount of \$557. It is, therefore, subject to Commission jurisdiction as a water company and a public service company.

13 The Commission may grant, however, a petition to remove a water company from regulation if the company has fewer than 100 customers.⁸ Because Richardson Water has only two customers, the Commission may consider whether to grant the Petition to remove the Company from regulation.

14 The Commission considers whether granting a petition to remove a water company from regulation is consistent with: (1) the public interest, (2) the purposes underlying regulation, and (3) applicable statutes.⁹ Staff argues that doing so in this case is consistent with each requirement. We agree.

15 The purpose of Commission regulation is to ensure a public service company's rates and charges are fair, just, reasonable, and sufficient. This means ensuring that customers receive service at a reasonable cost and that companies receive sufficient compensation for providing service. Under the present facts and circumstances, it is clear that Commission regulation, at this time, is unnecessary to ensure these standards are met. The Company and the HOA have reached a 10-year agreement for the provision of water, which will result in rates to customers that are fair, just, and reasonable. That agreement provides for a flat monthly rate to the HOA, which the HOA divides equally among its lots. The monthly rate is set to increase every year, by a particular amount, until 2028. The residents of the lots in the HOA will pay a monthly fee of \$45 per lot, starting in 2018, which will increase to a monthly fee of approximately \$62 per lot by 2028. Staff has investigated these rates and the Company has presented the rates of comparable customers in the area.¹⁰

16 We do not believe that exerting regulatory authority over the Company would result in rates that are more fair, just, or reasonable for customers. Likewise, we believe that the agreement reached by the Company with the HOA and the Company's request to be removed from regulation on December 7, 2017, support a finding that it is unnecessary

⁸ RCW 80.04.010(30)(e); *see* WAC 480-110-255(1).

⁹ *See* WAC 480-07-110(1).

¹⁰ *See* Staff's Petition at 3-4, ¶¶ 5-6 and accompanying notes.

for the Commission to exert regulatory authority to ensure sufficient compensation to the Company.

17 In this instance, the public interest weighs strongly in favor of removing the Company from regulation. The Company and the HOA have entered into a 10-year agreement for water service that provides for predictable increases to monthly fees that are agreeable to both the Company and its customers. Accordingly, we find that it is in the public interest to remove the Company from regulation.

18 Our decision to remove the Company from regulation does not preclude the Commission from exerting its jurisdiction over the Company in the future, in the event that changed circumstances alter the conclusions we make in this Order related to the public interest, the purposes underlying regulation, and applicable statutes.¹¹

FINDINGS AND CONCLUSIONS

19 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property, and affiliated interests of public service companies, including water companies.

20 (2) Richardson Water Company, LLC is a water company and a public service company subject to Commission jurisdiction.

21 (3) Richardson Water Company, LLC has fewer than 100 customers, but its average annual revenue per customer exceeds the threshold for determining Commission jurisdiction.

22 (4) This matter came before the Commission at its regularly scheduled meeting on November 8, 2018.

23 (5) After reviewing the information gathered and presented in this docket, and giving due consideration, the Commission finds it is consistent with the public interest, the purposes underlying regulation, and applicable statutes to remove Richardson Water Company, LLC from regulation under the circumstances presented in this case.

¹¹ See RCW 80.04.010(30)(e); WAC 480-110-255(1).

ORDER

THE COMMISSION ORDERS:

- 24 (1) Commission staff's petition to remove Richardson Water Company, LLC from regulation is GRANTED.
- 25 (2) Richardson Water Company, LLC is removed from regulation by the Commission as of the effective date of this Order.

DATED at Olympia, Washington, and effective November 8, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner